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To the members of the Minnesota Senate and the Minnesota House of Representatives:

We are a diverse coalition of 136 attorneys who practice law in Minnesota, united by a firm belief in reproductive freedom and reproductive health care access for all people. Our views and values reflect those of the vast majority of Minnesotans who support equitable access to abortion, without government interference — and who want to see Minnesota step forward as a national leader for reproductive health, rights, and justice.<sup>1</sup>

The passage of the PRO Act laid a strong foundation for protecting abortion rights and access in a post-Roe Minnesota, and we applaud your leadership in prioritizing and passing it into law. But as the legal community, we know that more action is needed to make the rights encompassed in the PRO Act real. We must repeal the restrictions that stand in the way of people's ability to exercise their rights and get the care they need.

The attacks on abortion access continue. On Friday, a federal court in Texas (*Alliance for Hippocratic Medicine v. U.S. Food and Drug Administration*) released a decision intended to eliminate access to mifepristone, one of two medications most commonly used to provide abortion care. If this unprecedented ruling stands, it will be the first to pull a medication off the market over 20 years after its FDA approval despite its consistent track record of being safe and effective. This case is likely to end up in front of the US Supreme Court. If Mifepristone is ultimately pulled from the market, Minnesotans and people across the country will face even further difficulty accessing abortion via medication, the most common form of abortion care. This will impact millions of people, including Minnesotans.

Ongoing and relentless attacks on abortion care, such as the case in Texas, are exactly why the Reproductive Freedom Codification Act (SF70 and HF91) is more crucial than ever. Minnesota must clear away a web of outdated, unjust, harmful, and unconstitutional anti-abortion laws that remain on the books — and remain a threat and a barrier to abortion and other essential health care access. We are writing to urge you to give this important legislation your full support, and to advance it quickly.

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<sup>1</sup> "State of Opinion on Abortion among Minnesota Voters," accessed February 8, 2023, <https://unrestrictmn.org/wp-content/uploads/2023/01/state-of-opinion-on-abortion-among-minnesota-voters.pdf>.

Among the many ways the Reproductive Freedom Codification Act will support reproductive freedom for everyone in Minnesota:

**It will end state-mandated anti-abortion propaganda and the 24-hour waiting period.**

- Until a judge declared the law unconstitutional, providers were required to share demonstrably false information with their patients before providing abortion care — such as a debunked claim linking abortion to breast cancer. Patients were also required to wait 24 hours after receiving this so-called counseling before receiving abortion care. Both of these practices have an adverse impact on patient safety and are opposed by the American College of Obstetrics and Gynecologists.<sup>2</sup>

**It will stop the arbitrary limitation on the number of providers who can perform abortions.**

- Another law ruled unconstitutional last year declared that only physicians can provide abortion care and prohibited abortions performed by all other trained, licensed providers, including advanced practice registered nurses. The Legislature is not a medical board and should not be making medical decisions about who can provide care. And to offer top-quality care for all who need it, we must expand the pool of available providers by repealing the physician-only requirement.

**It will stop overburdening and traumatizing younger people who need abortion care.**

- Both the American College of Obstetricians and Gynecologists and the American Academy of Pediatrics oppose laws restricting minors' access to abortion care. Research shows that the majority of young people involve a trusted adult in their decisions about abortion — and those who do not have good reason not to, like abuse or other serious problems in the home that they do not wish to exacerbate. But our current law requires all minors, including those who live in abusive homes or have no relationship with their parents at all, to choose between notifying both parents of their decision or going to court to prove they can make the decision on their own. In addition to the burdensome and overwhelming logistical and bureaucratic hurdles this law imposed on young people

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<sup>2</sup> “Abortion Access Fact Sheet,” ACOG, accessed February 8, 2023, <https://www.acog.org/advocacy/abortion-is-essential/come-prepared/abortion-access-fact-sheet>; “Increasing Access to Abortion,” ACOG, accessed February 8, 2023, <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2020/12/increasing-access-to-abortion>.

— often delaying their care — these laws also traumatize and endanger young people at a time when what they need is care and support.<sup>3</sup>

**It will protect the dignity of people facing complications and difficult decisions later in pregnancy, and stop forcing unwanted burial and cremation on abortion patients.**

- The Reproductive Freedom Codification Act would repeal a law that is ostensibly designed to outlaw later abortion, but that actually removes critical health care options for people facing complicated and often very painful decisions later in pregnancy — almost always involving lethal fetal conditions — and requires health care providers to take dying infants from their parents’ arms and administer ineffective and hopeless emergency procedures despite there being no chance of survival. The trauma and indignity of this is, needless to say, incalculable and indefensible. Additionally, Minnesota law requires all tissue resulting from an abortion or miscarriage to be buried or cremated, regardless of the beliefs, wishes, or preferences of the person who underwent the abortion or experienced the miscarriage. This is intrusive, harmful, and wholly unnecessary — and both of these laws serve only to stigmatize and complicate the abortion process for patients and providers.

**It will protect the privacy of abortion patients and providers.**

- Abortion is health care and abortion patients deserve privacy just like those receiving any other kind of medical services. But Minnesota law currently includes provisions that require abortion providers to collect and report to the state an exhaustive and invasive list of personal details about abortion patients — including how much money they make, the number of miscarriages they’ve experienced, the “specific reason” they’re having an abortion, and how they paid for the abortion. Providers who do not report this information could be charged with a felony under this requirement. In a post-*Roe* world where abortion is increasingly being criminalized in other states, ending this practice is more urgent now than ever.

Just last year, a Minnesota court ruled that many of these laws violated the state constitution — and many more clearly violate the same constitutional standards — but they remain on the books and could be revived through further legal action by politicians and activists who seek to end safe and legal abortion in Minnesota. Passing the Reproductive Freedom Codification Act

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<sup>3</sup> The Adolescent’s Right to Confidential Care When Considering Abortion , accessed February 8, 2023, <https://publications.aap.org/pediatrics/article/139/2/e20163861/59961/The-Adolescent-s-Right-to-Confidential-Care-When?autologincheck=redirected>.

would firmly close the door on this very real danger to our citizens and our health care providers.

It would also bring Minnesota's abortion and reproductive health laws back into alignment with the values of the people of our state. Just last December, new polling showed that overwhelming majorities of Minnesota voters want people in all our communities to have equal access to safe, legal, affordable abortion care. They want our state's laws to support access to abortion rather than restrict it, they specifically support the repeal of laws barricading abortion access — and they want lawmakers to take action.

This is a critical moment for reproductive freedom in Minnesota. In the wake of the US Supreme Court's decision overturning constitutional protections for abortion care, we must aggressively defend reproductive rights and health care access not only for our own citizens, but also for those seeking care and safe haven from other states whose lawmakers have refused to respect their rights and protect them in law.

Minnesota voters sent a pro-reproductive-freedom majority to the Legislature to take decisive action in support of reproductive freedom, and we are counting on your leadership. Passing the RFCA cannot wait.

Sincerely,

Summra Shariff, Gender Justice Board Chair

Ann Tobin, Gender Justice Board Vice Chair

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